

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JONATHAN MENA

Plaintiff,

-against-

THE CITY OF NEW YORK, *et al.*,

Defendants.

**DECLARATION OF  
WARDEN ANTONIO CUIN  
IN SUPPORT OF  
DEFENDANTS' MOTION  
FOR SUMMARY JUDGMENT**

12 Civ. 0028 (CM)

-----X  
**ANTONIO CUIN**, declares under penalty of perjury, pursuant to 28 U.S.C. §  
1746, that the following is true and correct:

1. I am employed by the New York City Department of Correction ("DOC")  
as the Warden of the Robert N. Davoren Complex ("R.N.D.C.") at Rikers Island. As such, I am  
familiar with inmate files and the housekeeping and environmental health procedures and records  
at R.N.D.C. I base this declaration on my personal knowledge and review of records maintained  
by DOC.

2. I submit this declaration in support of Defendants' motion for summary  
judgment.

**Inmate Handbook**

3. An Inmate Handbook is provided to all inmates upon arriving at a DOC  
facility.

4. The Inmate Handbook describes the steps in the IGRP. A true and correct  
copy of the pages of the Inmate Handbook describing that process is annexed hereto as Exhibit  
A.

5. Plaintiff was provided an Inmate Handbook on October 21, 2011 and signed his name acknowledging his receipt. A true and correct copy of a page from Plaintiff's DOC inmate file demonstrating that he acknowledged receipt of the Inmate Handbook is annexed hereto as Exhibit B.

6. The Handbook advises inmates that if they do not receive a response to their initial grievance within five days, they may request a formal hearing if they wish to proceed. Ex A at 21. The Handbook further advises inmates that "[i]f you do not receive a response to your grievance at any step of the grievance procedure within the time period required in the IGRP, you may proceed to the next step of the Grievance Procedure." Id.

#### **DOC Housekeeping**

7. A true and correct copy of Directive 3901R-A is annexed hereto as Exhibit C.

8. DOC Directive 3901R-A governs the policies and procedures related to the sanitation and cleanliness of DOC facilities. It is also available online at [http://www.nyc.gov/html/doc/downloads/pdf/3901R-A\\_n.pdf](http://www.nyc.gov/html/doc/downloads/pdf/3901R-A_n.pdf).

9. This Directive "ensures that all facilities within the New York City Department of Corrections are in compliance with the mandates of the Remedial Orders in Benjamin and related cases and with all applicable health codes and regulations regarding housekeeping." Ex. C at 1.

10. Pursuant to Directive 3901R-A, Public Health Sanitarian reports are generated to assess the relative level of sanitation and cleanliness of housing units.

11. On November 18, 2011, the housing units known as MOD 2 North and South at RNDC were inspected by a DOC sanitarian from the Environmental Health Unit. Pages

11 and 12 (cny000012, cny000013) of the Sanitarian's Report, relating to both MOD 2 North and South, and page 22 (cny000014) relating exclusively to MOD 2 South, are annexed hereto as Exhibit D.

12. On page 11, the ambient temperature is noted as 68.3 degrees. Id.

13. On page 11, it is also noted that with respect to the ventilation system, there was "NCA," or no cause for action. Id.

14. On page 22, it is noted that there was no presence of vermin. Id.

15. On page 22, it is also noted that there were no odors. Id.

Dated: New York, New York  
November 18, 2013

  
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ANTONIO CUI